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Date: May 13, 2005	Phone Number	Fax Number
To: Board of Patent Appeals & Interferences		(703) 872-9306
From: Kevin J. Zilka		

Docket No.: BVOC001**App. No: 09/769,880****Total Number of Pages Being Transmitted, Including Cover Sheet: 25****Message:**

Please deliver to the Board of Patent Appeals & Interferences.

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Kevin J. Zilka

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May 12, 2005

Practitioner's Docket No. BVOC001

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bertrand A. Damiba

Application No.: 09/769,880

Group No.: 2655

Filed: 01/24/2001

Examiner: McFadden, S.

For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR A DISTRIBUTED
SPEECH RECOGNITION TUNING PLATFORM

Mail Stop Appeal Briefs – Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION--37 C.F.R. § 41.37)

1. Transmitted herewith, in triplicate, is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on April 6, 2005.
2. STATUS OF APPLICANT

This application is on behalf of a small entity. A statement was already filed.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

*(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

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_ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

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37 C.F.R. § 1.10*

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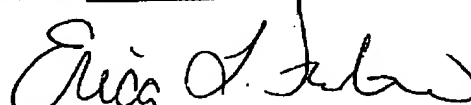
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Date:

5/13/2005



Signature

Erica L. Farlow

(type or print name of person certifying)

* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Transmittal of Appeal Brief--page 1 of 2

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3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:

small entity	\$250.00
Appeal Brief fee due	\$250.00

4. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee	\$250.00
Extension fee (if any)	\$0.00
TOTAL FEE DUE	\$250.00

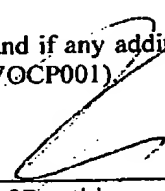
6. FEE PAYMENT

Authorization is hereby made to charge the amount of \$250.00 to Deposit Account No. 50-1351 (Order No. BVOC001).

A duplicate of this transmittal is attached.

7. FEE DEFICIENCY

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1351 (Order No. BVOC001).

Reg. No.: 41,429
Tel. No.: 408-971-2573
Customer No.: 28875

Signature of Practitioner
Kevin J. Zilka
Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120
USA

Transmittal of Appeal Brief--page 2 of 2



PATENT

Practitioner's Docket No. BVOC001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bertrand A. Damiba

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37 C.F.R. § 1.10*

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_ facsimile transmitted to the Patent and Trademark Office, (703) 872-9306.

Date:

5/13/2005

Signature

Erica L. Farlow

(type or print name of person certifying)

* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Transmittal of Appeal Brief--page 1 of 2

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Appeal Brief fee due \$250.00

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TOTAL FEE DUE \$250.00

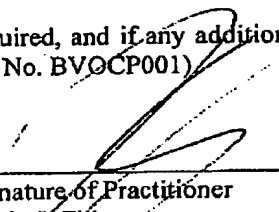
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Reg. No.: 41,429
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Signature of Practitioner
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San Jose, CA 95172-1120
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Transmittal of Appeal Brief--page 2 of 2

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of)
Bertrand A. Damiba) Group Art Unit: 2655
Application No. 09/769,880) Ex: McFadden, S.
Filed: January 24, 2001) Date: May 13, 2005
For: SYSTEM, METHOD AND COMPUTER)
PROGRAM PRODUCT FOR A)
DISTRIBUTED SPEECH RECOGNITION)
TUNING PLATFORM)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION: Board of Patent Appeals and Interferences**APPELLANT'S BRIEF (37 C.F.R. § 41.37)**

This brief is in furtherance of the Notice of Appeal, filed in this case on April 6, 2005.

The fees required under § 1.17, and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 41.37(c)(i)):

- I REAL PARTY IN INTEREST
- II RELATED APPEALS AND INTERFERENCES

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- III STATUS OF CLAIMS
- IV STATUS OF AMENDMENTS
- V SUMMARY OF CLAIMED SUBJECT MATTER
- VI ISSUES
- VII ARGUMENTS
- VIII APPENDIX OF CLAIMS INVOLVED IN THE APPEAL
- IX APPENDIX LISTING ANY EVIDENCE RELIED ON BY THE APPELLANT IN THE APPEAL

The final page of this brief bears the practitioner's signature.

-3-

I REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest in this appeal is BeVocal, Inc.

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II RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c) (1)(ii))

With respect to other prior or pending appeals, interferences, or related judicial proceedings that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no other such appeals, interferences, or related judicial proceedings.

Since no such proceedings exist, no Related Proceedings Appendix is appended hereto.

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III STATUS OF CLAIMS (37 C.F.R. § 41.37(c) (1)(iii))**A. TOTAL NUMBER OF CLAIMS IN APPLICATION**

Claims in the application are: 1-6, 11, 16-26

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims withdrawn from consideration: None
2. Claims pending: 1-6, 11, 16-26
3. Claims allowed: None
4. Claims rejected: 1-6, 11, 16-26

C. CLAIMS ON APPEAL

The claims on appeal are: 1-6, 11, 16-26

See additional status information in the Appendix of Claims.

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IV STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

As to the status of any amendment filed subsequent to final rejection, there are no such amendments after final.

-7-

V SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

With respect to a summary of Claims 1, 6 and 11, a technique is provided for improving speech recognition. In use, a database of utterances is maintained, and information is collected utilizing a speech recognition process, which is associated with the utterances in the database. See operations 302 and 304 of Figure 3 and the accompanying description on pages 17-18 et al. of the specification. The utterances in the database are transmitted to at least one user interface utilizing a network. Further, transcriptions of the utterances in the database are received from the at least one user interface utilizing the network. See operations 306 and 308 of Figure 3 and the accompanying description on pages 17-18 et al. of the specification. Thus, a human is capable of utilizing the information and the transcriptions to improve (i.e. tune, etc.) a speech recognition application. See operation 310 of Figure 3 and the accompanying description on pages 17-18 et al. of the specification.

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VI ISSUES (37 C.F.R. § 41.37(c)(1)(vi))

Following, under each issue listed, is a concise statement setting forth the corresponding ground of rejection.

Issue # 1: The Examiner has rejected Claims 1-6, 11, and 16-26 under 35 U.S.C. 112, first paragraph, as based on a disclosure that is not enabling.

Issue # 2: The Examiner continues by arguing that Claims 1-6, 11, and 16-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellant regards as the invention.

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VII ARGUMENTS (37 C.F.R. § 41.37(c)(1)(vii))Issue #1:

The Examiner has rejected Claims 1-6, 11, and 16-26 under 35 U.S.C. 112, first paragraph, as based on a disclosure that is not enabling.

Group #1: Claims 1-6, 11, and 16-26

The Examiner alleges that the key process of “improving speech recognition” critical or essential to the practice of the invention, but not included in the claims, is not enabled by the disclosure. It is further noted that the Examiner has cited *In re Mayhew*, 527 F.2d 1229, 1233, 188 USPQ 356, 358 (CCPA 1976), which requires that a feature which is taught as critical in a specification and is not recited in the claims should result in a rejection of such claim under the enablement provision.

First, in determining whether an unclaimed feature is critical, the entire disclosure must be considered. Features which are merely preferred are not to be considered critical. *In re Goffe*, 542 F.2d 564, 567, 191 USPQ 429, 431 (CCPA 1976).

In the present case, the improving or “tuning” is clearly qualified to emphasize the non-criticality of such feature. For example, on page 20, line 19-20 et al. of the originally filed specification, it is clearly stated that “[i]n use, the speech recognition process may be tuned utilizing the information and the transcriptions” (emphasis added).

Further, it should be noted that limiting an appellant to certain features in the absence of limiting prior art would not serve the constitutional purpose of promoting the progress in the useful arts. See MPEP 2164.08(c). It is noted that, to date, the Examiner has failed to even perform a prior art search, and thus to limit appellant, in the absence of

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such prior art, would not serve the constitutional purpose of promoting the progress in the useful arts.

The Examiner goes on to allege that the process of "improving speech recognition" is not enabled by the disclosure. Specifically, the Examiner argues that the claimed "improving a speech recognition process wherein a human is capable of utilizing the information and the transcriptions to improve a speech recognition process" is not enabled, in that the specification does not recite as to how it is improved.

Appellant respectfully disagrees with this assertion. Specifically, the speech recognition process is improved by tuning in the context of the remaining claim elements, namely by:

- “maintaining a database of utterances;
- collecting information associated with the utterances in the database utilizing a speech recognition process;
- transmitting the utterances in the database to at least one user interface utilizing a network;
- receiving transcriptions of the utterances in the database from the at least one user interface utilizing the network.”

Each of these operations is clearly enabled, and allows a human to utilize the information and the transcriptions for improving speech recognition by tuning in the specific context claimed.

The Examiner concludes by asserting that ‘the claimed invention lacks enablement, and only recites a wished-for result of automatic “tuning.” First, appellant does not *claim automatic* tuning, and thus need not enable such concept (i.e. appellant need only enable the claimed invention, etc.).

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Further, with respect to the term "improving" (i.e. tuning), it is noted that not everything necessary to practice the invention need be disclosed in the specification. In fact, what is well-known is best omitted. In re Buchner, 929 F.2d 660, 661, 18 USPQ2d 1331, 1332 (Fed. Cir. 1991). All that is necessary is that one skilled in the art be able to practice the claimed invention, given the level of knowledge and skill in the art. See, e.g., In re Fisher, 427 F.2d 833, 839, 166 USPQ 18, 24 (CCPA 1970).

It appears that the Examiner continues to focus only on the word "improving" (i.e. tuning) to support the non-enablement rejection. However, general "tuning," outside the context of appellant's remaining claim limitations, is well known. Note, for example, the following excerpts from various U.S. Patents with priority dates prior to appellant's priority date. Emphasis has been added.

US6,208,964 -A more specific object of the invention is to provide a method and apparatus that utilize a signal representative of audio information produced when uttering a certain word that is input to a speech recognition system along with the vocabulary item selected by the speech recognition system as being a match to the uttered word, in order to fine tune the transcription for the certain word that is stored in the dictionary of the speech recognition system.

US5,893,059 - Recognition and training of the speech recognition system of the present invention is driven by a set of configurable parameters or weights that can be modified according to the needs of an application, and/or to address site-specific or customer-specific issues including speech recognition model generation and scoring issues as discussed above. Parameters that are used to modify the grammar and the Viterbi search include externally input grammar, word spotting and scoring probabilities to be attached to the speaker-dependent garbage models, the application-specific garbage models, and the word-

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spotting garbage models. Additional parameters may be used to control pruning beam width, etc. Parameters that are used to control post-processing, e.g., recognition score threshold used for rejection, various training score thresholds for testing the similarity to existing names, and the consistency of training utterances, duration limits for very short or long utterances, and parameters for testing Viterbi alignment may also be adjusted and used to control or modify, e.g., fine tune, the speech recognition process in accordance with the present invention.

US5,819,220 - Interpreting the language model weights as "boosting" values enables the formulation of utterance specific triggering effects in dialogues so as to improve speech recognition accuracy. In addition, an adaptive algorithm for tuning these word dependent language model weights is given in "Word Set Probability Boosting for Improved Spontaneous Dialogue Recognition", Ramesh R. Sarukkai and Dana H. Ballard, published as a Technical Report at University of Rochester entitled "Word Set Probability Boosting Using Utterance and Dialog Triggers for Improved Spontaneous Dialogue Recognition: The AB/TAB Algorithms", Ramesh R. Sarukkai and Dana H. Ballard, URCSTR 601, Dept. of Computer Science, Univ. of Rochester, December 1995 and to appear in IEEE Transactions on Speech and Audio Processing.

US5,991,719 - This embodiment makes it possible to perform the process of adding to or changing the semantic number-registered word list and thus to tune up the processes by the semantic recognition system.

In view of this evidence, appellant was justified to omit a superfluous amount of information on general "tuning," etc.

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It is again argued that, tuning, etc. in general, was well known at the time of the invention; however, improving (i.e. tuning, etc.) a speech recognition application in the context of the following claim limitations, was not:

“maintaining a database of utterances;
collecting information associated with the utterances in the database
utilizing a speech recognition process;
transmitting the utterances in the database to at least one user
interface utilizing a network;
receiving transcriptions of the utterances in the database from the at
least one user interface utilizing the network;
wherein a human is capable of utilizing the information and the
transcriptions to improve a speech recognition application” (emphasis added)

Issue #2:

The Examiner continues by arguing that Claims 1-6, 11, and 16-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellant regards as the invention.

Group #1: Claims 1-6, 11, and 16-26

Specifically, the Examiner argues that the “improving” or “tuning” process terminology is not art standard for the speech recognition art and thus is vague and indefinite. Appellant respectfully disagrees with this assertion, in view of the excerpts above evidencing, in fact, that the “improving” or “tuning” process terminology is indeed standard in the art for the speech recognition art and thus is not vague and/or indefinite.

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The Examiner concludes with the question: what is the "improving" that is being claimed?" In response, appellant reiterates that such improving, for example, may include the disclosed tuning that is specifically carried out by implementing each of the operations that are claimed.

In view of the remarks set forth hereinabove, all of the independent claims are deemed allowable, along with any claims depending therefrom.

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VIII APPENDIX OF CLAIMS (37 C.F.R. § 41.37(c)(1)(viii))

The text of the claims involved in the appeal (along with associated status information) is set forth below:

1. (Previously Amended) A method for improving a speech recognition process, comprising:
maintaining a database of utterances;
collecting information associated with the utterances in the database utilizing a speech recognition process;
transmitting the utterances in the database to at least one user interface utilizing a network;
receiving transcriptions of the utterances in the database from the at least one user interface utilizing the network;
wherein a human is capable of utilizing the information and the transcriptions to improve a speech recognition application.
2. (Original) The method as recited in claim 1, wherein the network includes the Internet.
3. (Previously Amended) The method as recited in claim 2, wherein the transcriptions of the utterances are received from the at least one user interface using a network browser.
4. (Previously Amended) The method as recited in claim 1, wherein the speech recognition process is improved by performing experiments based on the information.

-16-

5. (Original) The method as recited in claim 4, wherein the information includes a recognition result.
6. (Previously Amended) A computer program product embodied on a computer readable medium for improving a speech recognition process, comprising:
 - (a) computer code for maintaining a database of utterances;
 - (b) computer code for collecting information associated with the utterances in the database utilizing a speech recognition process;
 - (c) computer code for transmitting the utterances in the database to at least one user interface utilizing a network; and
 - (d) computer code for receiving transcriptions of the utterances in the database from the at least one user interface utilizing the network;
 - (e) wherein a human is capable of utilizing the information and the transcriptions to improve a speech recognition application.
7. – 10. (Cancelled)
11. (Previously Amended) A system for improving a speech recognition process, comprising:
 - (a) logic for maintaining a database of utterances;
 - (b) logic for collecting information associated with the utterances in the database utilizing a speech recognition process;
 - (c) logic for transmitting the utterances in the database to at least one user interface utilizing a network;
 - (d) logic for receiving transcriptions of the utterances in the database from the at least one user interface utilizing the network;
 - (e) wherein a human is capable of utilizing the information and the transcriptions to improve a speech recognition application.

-17-

12. – 15. (Cancelled)

16. (Previously Presented) The method as recited in claim 1, wherein the information is selected from the group consisting of a name of a grammar each utterance was recognized against, a name of an audio file on a disk, a directory path to the audio file, a size of the audio file, a session identifier, an index of each utterance, a dialog state, a recognition status, a recognition confidence associated with a recognition result, a recognition hypothesis, a gender of a speaker, an identification of a transcriber, and a date the utterances are transcribed.

17. (Previously Presented) The method as recited in claim 1, wherein the information includes a name of a grammar each utterance was recognized against, a name of an audio file on a disk, a directory path to the audio file, a size of the audio file, a session identifier, an index of each utterance, a dialog state, a recognition status, a recognition confidence associated with a recognition result, a recognition hypothesis, a gender of a speaker, an identification of a transcriber, and a date the utterances are transcribed.

18. (Previously Presented) The method as recited in claim 1, wherein the utterances and the information are stored in the database, and the database is capable of being queried for results selected from the group consisting of a number of the utterances, a percentage of rejected utterances for a grammar, an average length of each utterance, a call volume in a predetermined range, a popularity of a grammar state, and a transcription management parameter.

19. (Previously Presented) The method as recited in claim 1, wherein the utterances and the information are stored in the database, and the database queried for results includes a number of the utterances, a percentage of rejected utterances for a grammar, an average length of each utterance, a call volume in a predetermined range, a popularity of a grammar state, and a transcription management parameter.

-18-

20. (Previously Presented) The method as recited in claim 1, wherein the speech recognition application is improved by performing experiments based on the information.
21. (Previously Presented) The method as recited in claim 1, wherein the at least one user interface includes a first icon for emitting a present utterance upon the selection thereof.
22. (Previously Presented) The method as recited in claim 21, wherein the at least one user interface includes additional icons for emitting previous and next utterances upon the selection thereof.
23. (Previously Presented) The method as recited in claim 1, wherein the at least one user interface includes a string field for allowing a user to enter a string corresponding to each utterance.
24. (Previously Presented) The method as recited in claim 1, wherein the at least one user interface includes a comment field for allowing a user to enter comments regarding a plurality of transcriptions.
25. (Previously Presented) The method as recited in claim 1, wherein the at least one user interface includes a hint menu for allowing a user to choose from a plurality of strings identified by the speech recognition process.
26. (Previously Presented) The method as recited in claim 25, wherein the hint menu allows the user to do a manual comparison between the utterances and results of the speech recognition process.

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**IX APPENDIX LISTING ANY EVIDENCE RELIED ON BY THE
APPELLANT IN THE APPEAL (37 C.F.R. § 41.37(c)(1)(ix))**

There is no such evidence.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 971-2573. For payment of any additional fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. BVOC001).

Respectfully submitted,

By: _____

Kevin J. Zilka

Reg. No. 41,429

Date: _____

5/13/05

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